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COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON D.C. 20548

B-197146

October 27, 1981

The Honorable Jack Brooks,
Chairman, Committee on Government
Operations
House of Representatives

Dear Mr. Chairman:

This responds to your letter of August 12, 1981, requesting our comments on H.R. 4333, 97th Congress, the proposed "Collection Services Procurement Act of 1981."

This bill, introduced by Representative English, would amend the Federal Property and Administrative Services Act to authorize Federal agencies to contract for certain debt collection services. A recent amendment to the Federal Claims Collection Standards (4 C.F.R. §102.5, added at 46 Fed. Reg. 22353) provides for essentially the same contracts as H.R. 4333. Representative English introduced his bill because he questions the legal basis for the change in the Claims Collection Standards. See Congressional Record for July 30, 1981, at H5419-5420.

As indicated in our letter of today to Representative English (copy enclosed), we do not share his reservations concerning the legality of the revised Claims Collection Standards. Therefore, we do not believe that enactment of H.R. 4333 is necessary. However, in the event that the Committee gives favorable consideration to H.R. 4333, we would suggest certain changes.

We believe that in view of the subject matter of the legislation, it should amend the Federal Claims Collection Act, 31 U.S.C. §591 et. seq., rather than the Federal Property Act. Along the same lines, we suggest that any necessary implementing regulations should be prescribed jointly by the Attorney General and the Comptroller General (as under the Claims Collection Act), rather than by the Director of the Office of Management and Budget. Of course, the Office of Management and Budget would be consulted as appropriate.

In our view, the legislation should not require that any contract automatically subject the contractor to the Privacy Act, 5 U.S.C. §552a. The Privacy Act does not apply generally to Government contracts. Rather, subsection 552a(m) requires application of the Act to contractors only when the contract provides--

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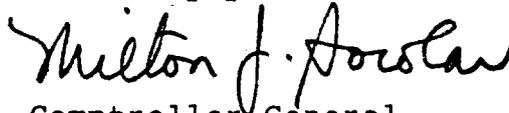
"for the operation by or on behalf of the [Federal] agency of a system of records to accomplish an agency function * * *."

Therefore it is possible that the Privacy Act would not apply by its terms to some of the contracts covered by H.R. 4333. As an alternative, we suggest that the bill provide for making contractors subject to the Privacy Act "when applicable." This is the approach taken in the bill with respect to Federal and State laws and regulations pertaining to debt collection practices.

We also consider unnecessary the provisions of the bill relating to competitive bidding. The existing Federal laws on this subject which would apply to the contracts for debt collection services appear adequate with regard to competition.

Finally, subsection (b) of H.R. 4333 would delay for one year the effective date of the authorization for debt collection contracts. We see no basis for this delay and would strongly recommend against it.

Sincerely yours,



Acting

Comptroller General
of the United States

Enclosure